

Central Intelligence Agency



Washington, D.C. 20505

12 AUG 1985

OLL: 85-2263/1

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The Honorable Dave Durenberger, Chairman
Select Committee on Intelligence
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I have received your letter of 29 July 1985 in which you and Vice Chairman Leahy express an interest in exploring the legal authority for special military operations, and the implications of so-called overt covert actions. Be assured that I and my staff will be happy to participate in informal discussions, or any other consultations you deem desirable on these matters. I understand your letter has also been sent to the Secretary of State and the Secretary of Defense. This will facilitate full discussion of intricate and complex issues raised by these matters.

With respect to the legal authority for military special operations, although I am advised that the Department of Defense has adequate authority to carry out such operations, I must look to that Department for a definitive statement on this issue and the ancillary matter of informing Congress.

With respect to overt covert actions, several times in the past four years I have had to deal with covert actions that have been exposed to the public by the media. On each occasion the flood of public attention cast these sensitive and important activities into a national political maelstrom with foreseeable results. The programs have been inaccurately or incompletely reported in the media. The Central Intelligence Agency has been falsely accused of everything from violation of law to gross immorality. The Intelligence Committees have spent countless hours investigating charges which proved to have been either greatly exaggerated or groundless. In some cases there

has been a reduction in the effectiveness of the operation because of legislative actions which have limited Agency authority; in all, because of the focus of worldwide media attention, there has been a chilling effect on the programs.

Thus, I understand your concern about the Agency being embroiled in these overt covert actions. Nevertheless, I am also deeply concerned that because someone reveals or speculates or lies about this Government's covert involvement in a foreign country, we need to stop using one of the most useful mechanisms this Government has for furnishing an extraordinary range of support to foreign friends quietly and efficiently. This would simply fuel Soviet disinformation efforts, and make our activities hostage to anyone in a position to leak them.

Despite recent Congressional efforts to legislate overt U.S. assistance to Cambodian dissidents, Afghan resistance fighters, and the Nicaraguan democratic resistance groups, the effectiveness of this approach has yet to be demonstrated. Furthermore, in each case, this overt support is strictly circumscribed by law which means that significant areas of advice and assistance on political, economic, military, and human rights are not addressed.

As much as anyone, I have regretted the disclosure in the media of CIA operations, whether they be covert actions or sensitive technical and HUMINT collection operations. But we cannot cut and run every time the media chooses to say "CIA".

I welcome your interest in this matter and am pleased to pledge the cooperation of this Agency. This information is also being provided to Vice Chairman Leahy.

Sincerely,

/s/ William J. Casey

William J. Casey
Director of Central Intelligence

SUBJECT: Letters to Chairman Durenberger and Vice Chairman Leahy, SSCI, re
Legal Authority for Special Military Operations and Implications
of so-called Overt Covert Actions

Distribution:

Original - Addressee

Original - Vice Chairman Leahy, SSCI (OLL: 85-2263/2)

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DD/OLL:ELS:mlg (9 August 1985)

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Central Intelligence Agency



Washington, D.C. 20505

12 AUG 1985

OLL: 85-1987/3

The Honorable Lee H. Hamilton, Chairman
Permanent Select Committee on Intelligence
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your letter of 9 July 1985 concerning the manner in which briefings on sensitive intelligence matters are to be provided to your Committee. While I appreciate receiving your position and the deliberations of the Committee on this matter, I would hope we could discuss it further in the interest of reaching a solution that best serves our mutual interests.

With respect to your interpretation of the requirements of Section 501 of the National Security Act, while this Act provides specific language for limiting prior notice, I do not believe it precludes withholding notice or the provision of notice by other methods in appropriate circumstances. The preambular language to the Act explicitly recognizes the constitutional prerogatives of the President, and I believe the President could exercise those prerogatives to withhold or seek to limit notice. Equally, the Committee could amend its rules to provide for reporting on the basis we have discussed consistent with both the letter and spirit of the law.

The course you have chosen is a departure from the procedure this Agency has followed for the past eight years with both Intelligence Committees whenever extremely sensitive operational matters arose. During most of these years the Intelligence Oversight Act of 1980 was in effect, but its provision authorizing the President to limit prior notice was not used

until recently because the Committees and the Agency had an informal, secure and flexible arrangement which satisfied joint needs without resorting to a more rigid formal procedure. There was a spirit of comity and dynamic compromise recognized by the Executive and Legislative Branches, a spirit which I believe was much in the minds of both Intelligence Committees when the Intelligence Oversight Act was enacted.

I sincerely hope we can agree that the working relationship between us must avoid the mischief of polarization, and should base the settlement of conflict on continued interplay between us. I hope that the Committee will continue to encourage intelligence officials to suggest the need and methods for sensitive handling of certain information, as it has in the past. These are all thoughts expressed by your Committee in the HPSCI report on the Intelligence Oversight Act, and they are as valid now as they were then.

It is in this same spirit that I invite you and all the Members of your Committee to join me in a concerted effort to develop an effective and flexible relationship that fully satisfies our joint responsibilities within the laws of the nation. Perhaps we could discuss this at a breakfast here at Langley with you and Bob Stump sometime after your return in September.

Sincerely,
/s/ William J. Casey

William J. Casey
Director of Central Intelligence

SUBJECT: Letter to Chairman Hamilton, HPSCI, re Manner in Which Briefings on Sensitive Intelligence Matters are to be Provided to the HPSCI

Distribution:

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DD/OLL:ELS:mlg (1 Aug 1985)

Central Intelligence Agency



Washington, D.C. 20505

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13 AUG 85

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Select Committee on Intelligence
United States Senate
Washington, D.C. 20510

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William J. Casey
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